

Accessible Canada Act Passes First Reading

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On June 20, 2018 the *Accessible Canada Act* was introduced in the House of Commons and passed first reading. The *Accessible Canada Act*, also known by its full title as *An Act to ensure a barrier-free Canada*, is presently a bill, and must work its way through the legislative process before becoming law in Canada. When it becomes law, it will create new accessibility requirements for certain federally-regulated sectors.

The purpose of the Act is to identify, remove and prevent barriers in:

- Federal buildings and public spaces
- Federally-regulated employment
- Information and communication technologies
- Federal procurement of goods and services
- Government of Canada programs and services; and
- Federally regulated transportation, including air, rail, ferry and buses that travel across a provincial or international border

The Government may identify additional areas in the future.

The Act defines a barrier as anything that hinders the full and equal participation in society of persons with a physical, mental, intellectual, learning, communication or sensory impairment or functional limitation.

The Act will apply to organizations under federal jurisdiction, including Parliament, the Government of Canada, government departments, Crown Corporations and agencies, the banking and financial sectors, broadcasting and telecommunications service providers, federally-regulated transportation service providers, and other private sector organizations that are under federal jurisdiction. The Act will also apply to the Canadian Forces and the Royal Canadian Mounted Police.

These organizations will be required to create accessibility plans, create feedback processes and submit progress reports. The accessibility plans

must describe the organization's policies, practices, programs and services to identify, remove and prevent barriers. These plans will need to be developed through consultations with persons with disabilities. The plans must be published and updated every 3 years. Organizations must create feedback processes to receive and respond to feedback from people about the barriers they encounter and how the organization is meeting its accessibility plan. These feedback processes must be published. Organizations must also prepare and publish progress reports that explain how they are fulfilling their accessibility plans. These reports must be prepared in consultation with persons with disabilities, and must include information about the main concerns raised through the feedback process and how those concerns are being addressed. Organizations must make these progress reports available to people who request them.

The Act creates a new body called the Canadian Accessibility Standards Development Organization. The mandate of this new body is to develop and revise accessibility standards, which will be regulations that set out the steps that organizations must take to identify, remove and prevent barriers. The new body also has a mandate to develop and revise information, products and services in relation to the accessibility standards, promote and conduct research into the identification and removal of barriers and the prevention of new barriers, and disseminate information about best practices. The majority of the new body's board of directors will be persons with disabilities, and the directors should represent the diversity of Canadian society.

To develop accessibility standards, the new body will form committees that include experts, persons with disabilities, and representatives from sectors or organizations that will have to meet the particular standard. When new accessibility standards are created, they must be made available to the public. The new body must submit annual reports on its activities to the Minister responsible for the legislation, The Honourable Kirsty Duncan, who is the Minister of Sport and Persons with Disabilities.

The Act sets out a number of ways in which it will be monitored and enforced. An Accessibility Commissioner, who is a member of the Canadian Human Rights Commission, will be appointed and will have

responsibility for some aspects of compliance and enforcement of the Act. The Accessibility Commissioner's role is to give information or advice to the Minister about the legislation. The Commissioner must report on his/her activities annually to the Minister, and must include in the report an analysis of any systemic or emerging accessibility issues. This report may be published.

In order to determine whether organizations are complying with the legislation, and to prevent organizations from failing to comply, the Accessibility Commissioner or his/her officers can conduct inspections and make compliance orders requiring an organization to take steps to comply with the Act within a specified period of time. The Accessibility Commissioner or his/her officers can also issue notices of violation containing a warning or assigning a fine that organizations must pay for failing to comply with the accessibility requirements set out in the Act or regulations. Fines can be set at up to \$250,000 and will depend on the extent to which an organization has failed to comply with the Act or regulations. Organizations will have rights to appeal these notices and fines.

With a few exceptions, people who have experienced physical or psychological harm, property damage, or economic loss due to an organization not complying with the regulations have a right to file a complaint with the Accessibility Commissioner. The Commissioner may investigate complaints, try to resolve complaints, and determine whether complaints are substantiated or not. For substantiated complaints, the Commissioner may order an organization to take steps to meet its accessibility requirements and pay compensation to the aggrieved person.

Some complaints would not be made to the Accessibility Commissioner. For example, complaints about barriers in broadcasting and telecommunication services would continue to be made to the Canadian Radio-television and Telecommunications Commission (CRTC), and complaints about federal transportation systems would continue to be made to the Canadian Transportation Agency or the Canadian Human Rights Commission.

The right to make an accessibility complaint to the Accessibility Commissioner would not affect or prevent someone from using the existing Canadian Human Rights Commission process to make a complaint about discrimination.

In addition, an independent Chief Accessibility Officer will be appointed, with responsibilities for monitoring and reporting to the Minister on the implementation of the Act.

When the Act was introduced into Parliament, Minister Duncan also announced that the Government of Canada has committed \$290 million over six years to implement this new legislation. Approximately \$18 million will be invested to expand the existing Opportunities Fund for Persons with Disabilities to connect persons with disabilities looking for employment with employers, and support employers to recruit, accommodate and retain employees with disabilities.

Disability organizations and activists are presently studying the Act and developing legislative analyses and advocacy positions, which will be disseminated to the community. When the House of Commons resumes in the fall, the Act will continue to work its way through the legislative process. It is very likely that the Act will be referred to a legislative committee for further study and recommendations. Disability organizations, stakeholders and members of the community will likely have opportunities to provide feedback and input on the Act to the legislative committee.

For more information and to read the full text of the Act, go to:

<http://www.parl.ca/DocumentViewer/en/42-1/bill/C-81/first-reading#enH755>

To read the Government of Canada's plain language summary of the Act go to: <https://www.canada.ca/en/employment-social-development/programs/accessible-people-disabilities/act-plain-language-summary.html>